UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EDGARDO RODRIGUEZ, Petitioner	)	
v.	)	Civil Action No. 05-30170-MAP
UNITED STATES OF AMERICA, Respondent	)	

MEMORANDUM AND ORDER REGARDING
PETITIONER'S MOTION TO VACATE, SET ASIDE OR CORRECT
SENTENCE PURSUANT TO 28 U.S.C. § 2255
(Docket No. 1)

September 21, 2005

PONSOR, D.J.

The petitioner has filed this second motion pursuant to 28 U.S.C. § 2255, seeking to vacate, set aside or correct his sentence. A previous motion based on this statute was denied by the court on March 2, 2001. This petition attempts to raise issues pursuant to the Supreme Court's decision in United States v. Booker, 125 S.Ct. 738 (2005).

This petition must be dismissed for two reasons. First, this is a second petition barred by the Antiterrorism and Effective Death Penalty Act ("AEDPA") without appropriate authorization. See 28 U.S.C. § 2244(b)(3)(A). Second, the Supreme Court's Booker decision has been held to have no retroactive effect. United States v. Cirilo-Munoz, 404 F.3d 527 (1st Cir. 2005). The petitioner may not invoke the Supreme Court's Booker decision as a basis for remedy.

For the foregoing reasons, the petitioner's motion pursuant to 28 U.S.C. § 2255 is hereby DENIED, and the petition is hereby ordered DISMISSED. This case may now be closed.

It is So Ordered.

/s/Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge